

February 11, 2000

Mail Out MSC# 00-02

State of California
AIR RESOURCES BOARD

Second Notice of Public Availability of Modified Text

PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE CERTIFICATION
PROCEDURES FOR ALL AFTERMARKET PARTS AND CONVERSION SYSTEMS FOR
OFF-ROAD VEHICLES, ENGINES, AND EQUIPMENT

Public Hearing Date: November 19, 1998
Public Availability Date: February 16, 2000
Deadline for Public Comment: March 3, 2000

This notice announces a second supplemental period during which the public may comment on additional proposed modifications to the "Certification Procedures for Off-Road Vehicles, Engines, and Equipment." No action by the public is necessary unless persons wish to comment on the additional modifications.

At a public hearing held November 19, 1998, the Air Resources Board (the "Board") considered the adoption of sections 2470 through 2476, Title 13, California Code of Regulations ("CCR"), and amendments to sections 2405 and 2425, Title 13, CCR. The purpose of those regulations is to establish certification procedures that will allow off-road aftermarket parts manufacturers to demonstrate, through emissions testing, that their aftermarket parts would not increase off-road vehicle/engine/equipment emissions. These procedures would therefore allow manufacturers to sell, offer for sale, and install aftermarket parts for off-road vehicles/engines/equipment provided such parts have been certified in accordance with the adopted procedures. The proposed regulatory action is described in detail in the initial statement of reasons (Staff Report), released September 1998 as part of Mail-Out MSC 98-26.

At the hearing, the Board approved the adoption of sections 2470 through 2476, Title 13, CCR, and the amendments to sections 2405 and 2425, Title 13, CCR, with some modifications to the originally proposed regulatory language. The modified language was sent out for public comment August 30, 1999, as Mail-Out MSC 99-23.

On November 16, 1999, the Office of Administrative Law (OAL) disapproved the proposed regulations. OAL cited several reasons for its disapproval, including its determination that a number of provisions in the proposed regulations were unclear and required clarification: (1) the criteria for evaluating an add-on or modified part's effect on a vehicle's driveability or performance was not included in the regulation; (2) the labeling requirements of the "Procedures for Exemption of Add-On and Modified Parts for Off-Road Categories" were confusing; (3) Section 2473 did not specify that a manufacturer may elect the format for maintaining

replacement part records; and (4) the regulatory effect of the list of emission-related parts contained in Appendix B to “Procedures for Exemption of Add-On and Modified Parts for Off-Road Categories” was unclear. OAL also determined that the “California Certification and Installation Procedures for Systems Designed to Convert Off-road Vehicles, Engines, and Equipment to Use Alternative Fuels” was not incorporated by reference into the regulation, and that provisions regarding the engine compartment and product information label that were originally made available for public comment were changed without making the changes available for public comment.

Since the November 19, 1998 hearing the Board adopted, and OAL approved, regulations establishing emission standards and test procedures for off-road large spark-ignition engines (Title 13, CCR sections 2430 to 2439) and for spark-ignition marine engines (Title 13, CCR sections 2440 to 2448). Amendments have also been made to the off-highway recreational vehicle and engine regulations.

This notice contains further modifications and clarifications to address the concerns noted by OAL, to include the off-road large spark-ignition engine and spark-ignition marine engine categories in the proposed regulations, and to modify definitions to ensure definitional consistency with off-road regulations. The regulatory and procedural sections that have been further modified are contained in Enclosure 1. The following describes the additional modifications, by Section number.

Regulations

§ 2405 - Defects Warranty Requirements for 1995 and Later Small Off-Road Engines

Paragraph (c)(10) was modified by adding nonsubstantive, clarifying language.

§ 2425 - Defects Warranty Requirements for 1996 and Later Heavy-Duty Off-Road Diesel Cycle Engines

Paragraph (c)(10) was modified by adding nonsubstantive, clarifying language.

§ 2435 – Defects Warranty Requirements for 2001 and Later Off-Road Large Spark-Ignition Engines

Paragraph (c)(10) was modified to clarify that the proposed regulations would apply to aftermarket parts for 2001 and later model-year off-road large spark-ignition engines. The regulations establishing emission standards and test procedures applicable to off-road large spark-ignition engines took effect on November 18, 1999.

§ 2445.1 - Defects Warranty Requirements for Model Year 2001 and Later Spark-Ignition Marine Engines

Paragraph (d)(10) was modified to clarify that the proposed regulations would apply to aftermarket parts for 2001 and later model-year spark-ignition marine engines. The regulations establishing emission standards and test procedures applicable to spark-ignition marine engines took effect on January 7, 2000.

§ 2471 – Definitions

The definitions of “alternative fuel conversion system” and “alternative fuel conversion system manufacturer” were modified by adding nonsubstantive, clarifying language.

The definition of “conversion system” was deleted.

Staff added the definition of “driveability” to clarify the criteria for evaluating an add-on or modified part’s effect on off-road vehicles, engines, or equipment.

The definition of “exhaust emissions” was modified to clarify that it includes emissions from off-road vehicles, engines, and equipment.

The definitions of “inboard engine”, “marine watercraft”, “outboard engine”, “personal watercraft engine”, “spark-ignition marine engine”, and “sterndrive engine” were modified so that they would be consistent with the definitions in Title 13, California Code of Regulations section 2441.

The definition of “installer” was modified by adding nonsubstantive, clarifying language.

The definitions of “nonroad equipment” and “nonroad vehicles” were deleted.

The definition of “off-highway recreational vehicle engines” was modified by adding nonsubstantive, clarifying language.

The definition of “off-road engine” was modified to include any internal combustion engine or motor designed for powering off-road vehicles or off-road equipment.

The definition of “off-road large spark-ignition engines” was added.

The definitions of “off-road vehicle” or “off-road equipment” and “otto cycle engine” were modified to be consistent with the definitions in Title 13, California Code of Regulations section 2431.

The definition of “scheduled maintenance” was modified by adding nonsubstantive, clarifying language.

The definition of “small off-road engines” was modified to be consistent with the March 23, 1999 amended definition in Title 13, California Code of Regulations section 2401(a)(35).

The definition of “ultimate purchaser” was added.

The definition of “warrantable condition” was modified by adding nonsubstantive, clarifying language.

The definition of “warranty station” was modified by adding nonsubstantive, clarifying language.

§ 2473 – Replacement Parts

Paragraph (b) was modified by adding language to clarify that a replacement part manufacturer may select the format for storing and maintaining required records, provided the format allows the records to be readily retrieved and displayed to the executive officer. The added language specifically recognizes that a replacement part manufacturer may elect to store its records on electronic or computer readable media.

§ 2474 – Add-On Parts and Modified Parts

Paragraph (e) was modified to explicitly incorporate by reference the “Procedures for Exemption of Add-On and Modified Parts for Off-Road Categories,” adopted October 1, 1999.

Paragraph (h)(1) was modified to explicitly incorporate by reference the “California Evaluation Procedures for New Aftermarket Non-Original Equipment Catalytic Converters for Off-Road Vehicles, Engines, and Equipment,” adopted October 1, 1999.

Paragraph (h)(2) was modified by adding nonsubstantive, clarifying language.

Paragraph (i)(1) was modified to explicitly incorporate by reference the “Procedures for Exemption of Add-On and Modified Parts for Off-Road Categories,” adopted October 1, 1999.

Paragraph (i)(3) was modified by adding language to clarify that a “used catalytic converter” does not include a “replacement part” as defined in Title 13, California Code of Regulations section 1900.

Staff added language in Paragraph (j), subsections (1) and (2), to clarify that alternative fuel conversion systems must be exempted and installed in accordance with the “California Certification and Installation Procedures for Systems Designed to Convert Off-Road Vehicles, Engines, and Equipment to Use Alternate Fuels,” adopted October 1, 1999.

§ 2475 – Surveillance

Paragraph (b) was modified to explicitly incorporate by reference the “Procedures for Exemption of Add-On and Modified Parts for Off-Road Categories,” adopted October 1, 1999.

Procedures for Exemption of Add-On and Modified Parts for Off-Road Categories

Section I – Applicability

In response to comments from OAL that the regulatory effect of the list of components in Appendix B to the Procedures is unclear, language was added to clarify that Appendix B to the Procedures merely provides examples of emission related add-on and modified parts for on-road vehicles. Staff anticipates that manufacturers of aftermarket parts for off-road vehicles, engines, and equipment would use the list of components in Appendix B to obtain guidance as to whether a particular aftermarket part would require an exemption from the proposed regulation.

Staff also added language to clarify that the proposed procedures would not affect the existing provisions regarding replacement engines for small off-road engines, off-road motorcycles and all-terrain vehicles, and off-road large spark-ignition engines.

Section III.D – Categorization of Parts – Generic Categories

Staff deleted the reference to Appendix B of the Procedures in light of the clarifying language added to Section I (discussed above).

Section IV.C – Performance and Driveability

OAL commented that the criteria for evaluating an add-on or modified part’s effect on a vehicle, engine, or equipment’s driveability and performance was not included in the regulation, and the Specialty Equipment Manufacturers’ Association (SEMA) commented there was insufficient indication of the driveability and performance criteria. In responding to SEMA’s comment, staff was under the impression that performance and driveability criteria existed in a publically available document for motor vehicles. However, additional investigation revealed that staff was incorrect as to this belief. Based on this finding, staff added language clarifying that the executive officer will conduct his or her evaluation of performance and driveability using good engineering judgment. This language, in conjunction with the definition of “driveability” added to section 2471(a)(9), should address both OAL and SEMA concerns.

Section IV.D – Durability

Staff added language to clarify that the Executive Officer will find that an add-on or modified part increases emissions only if the part adversely affects the durability of the vehicle, engine, or equipment’s emission control system.

Section V.A – Off-Road Categories; Small Off-Road Engines

The description of the small off-road engine category was modified to be consistent with the updated definition in Title 13, California Code of Regulations section 2401(a)(35), as amended March 23, 1999.

Section V.C - Off-Road Categories; Off-Highway Recreational Vehicles and Engines

The description of the off-highway recreational vehicle engine category was modified to be consistent with the updated definition in Title 13, California Code of Regulations section 2411(a)(15), as amended December 8, 1999.

Section V.D - Off-Road Categories; Spark-Ignition Marine Engines

The description of the spark-ignition marine engine category was modified to be consistent with the definition in Title 13, California Code of Regulations section 2441(a)(30), adopted December 8, 1999.

Section V.E - Off-Road Categories; Off-Road Large Spark-Ignition Engines

The description of the off-road large spark-ignition engine category was added to be consistent with the definition in Title 13, California Code of Regulations section 2431(a)(27), adopted October 19, 1999.

Section VI.A 1)- Test Procedures for Small Off-Road Engines

The test procedures for this category were explicitly incorporated by reference.

Section VI.A 2)– Test Procedures for Off-Road Diesel Engines and Equipment

Added language to explicitly incorporate by reference the test procedures for this category and to correct a reference from Title 13, CCR section 2424 to section 2423.

Section VI.A 3)– Test Procedures for Off-Highway Recreational Vehicles and Engines

Staff added language to explicitly incorporate by reference the test procedures for this category and modified references to the test procedures to be consistent with the procedures in Title 13, CCR section 2412, as amended December 8, 1999.

Section VI.A 4)– Test Procedures for Spark-Ignition Marine Engines

Because the ARB’s regulations applicable to spark-ignition marine engines were adopted by the Board and approved by OAL subsequent to the November 19, 1998 hearing on the proposed regulations, staff replaced the prior reference to test procedures adopted by the U.S.

EPA with the test procedures specified in Title 13, CCR section 2442, and explicitly incorporated by reference the test procedures for this category.

Section VI.A 5)– Test Procedures for Off-Road Large Spark-Ignition Engines

Staff added references to and explicitly incorporated by reference the test procedures for this category.

Section VII.B – Labeling Requirements

Staff added language to clarify that if the installation of an add-on or modified part requires certain specified modifications to an original equipment manufacturer's emission control system, the aftermarket manufacturer must provide two identical labels. One label must be installed on or near the part, and the other label must be installed adjacent to the original equipment manufacturer's tune-up label.

Section VIII – Warranty Requirements

Language was modified to clarify that add-on and modified part manufacturers must warrant their parts to the ultimate purchaser and each subsequent purchaser of their parts.

Appendix A

Language was modified to clarify that if the installation of an add-on or modified part requires specified changes to a emission control system, the aftermarket part manufacturer must provide both a sample of its product information label and descriptions of the specified changes.

Appendix B

In response to a comment by OAL, the most recent amendment date of Appendix B was modified to be consistent with the date in Title 13, CCR section 1900(b)(3).

California Evaluation Procedures for New Aftermarket Non-Original Equipment Catalytic Converters for Off-Road Vehicles, Engines, and Equipment

Section III.A – Off-Road Categories; Small Off-Road Engines

The description of the small off-road engine category was modified to be consistent with the updated definition in Title 13, California Code of Regulations section 2401(a)(35), as amended March 23, 1999.

Section III.C - Off-Road Categories; Off-Highway Recreational Vehicles and Engines

The description of the off-highway recreational vehicle engine category was modified to be consistent with the updated definition in Title 13, California Code of Regulations section 2411(a)(15), as amended December 8, 1999.

Section III.D - Off-Road Categories; Spark-Ignition Marine Engines

The description of the spark-ignition marine engine category was modified to be consistent with the definition in Title 13, California Code of Regulations section 2441(a)(30), adopted December 8, 1999.

Section III.E - Off-Road Categories; Off-Road Large Spark-Ignition Engines

The description of the off-road large spark-ignition engine category was added to be consistent with the definition in Title 13, California Code of Regulations section 2431(a)(27), adopted October 19, 1999.

Section IV.A 1)- Test Procedures for Small Off-Road Engines

The test procedures for this category were explicitly incorporated by reference.

Section IV.A 2)– Test Procedures for Off-Road Diesel Engines and Equipment

Added language to explicitly incorporate by reference the test procedures for this category and to correct a reference from Title 13, CCR section 2424 to section 2423.

Section IV.A 3)– Test Procedures for Off-Highway Recreational Vehicles and Engines

Staff added language to explicitly incorporate by reference the test procedures for this category and modified references to the test procedures to be consistent with the procedures in Title 13, CCR section 2412, as amended December 8, 1999.

Section IV.A 4)– Test Procedures for Spark-Ignition Marine Engines

Because the ARB's regulations applicable to spark-ignition marine engines were adopted by the Board and approved by OAL subsequent to the November 19, 1998 hearing on the proposed regulations, staff replaced the prior reference to test procedures adopted by the U.S. EPA with the test procedures specified in Title 13, CCR section 2442, and explicitly incorporated by reference the test procedures for this category.

Section IV.A 5)– Test Procedures for Off-Road Large Spark-Ignition Engines

Staff added references to and explicitly incorporated by reference the test procedures for this category.

Section IV. B 3) – Off-Road Vehicles/Engines/Equipment Certified Under Optional Averaging, Banking, and Trading Provisions

Staff added a nonsubstantive, clarification to the language.

Section VI. – Warranty and Safety Statement

Language was added to clarify that catalyst manufacturers must warrant their converters to the ultimate purchaser and each subsequent purchaser.

Section VI.C – Warranty and Safety Statement; Off-Highway Recreational Vehicles and Engines

The warranty requirements for new off-highway recreational vehicles and engines were removed from Title 13, CCR section 2414 by an amendment to that section filed March 23, 1999. Staff therefore amended this section to remove any minimum warranty period for catalytic converters for this category.

Section VI.E – Warranty and Safety Statement; Off-Road Large Spark-Ignition Engines

Language was added to specify the minimum warranty periods for catalytic converters for off-road large spark-ignition engines.

California Certification and Installation Procedures for Systems Designed to Convert Off-Road Vehicles, Engines, and Equipment to Use Alternative Fuels

Section I.B.2) – Evaluation Criteria; Performance and Driveability

OAL commented that the criteria for evaluating an add-on or modified part's effect on a vehicle, engine, or equipment's driveability and performance was not included in the regulation, and the Specialty Equipment Manufacturers' Association (SEMA) commented there was insufficient indication of the driveability and performance criteria. In responding to SEMA's comment, staff was under the impression that performance and driveability criteria existed in a publically available document for motor vehicles. However, additional investigation revealed that staff was incorrect as to this belief. Based on this finding, staff added language clarifying that the executive officer will conduct his or her evaluation of performance and driveability using good engineering judgment. This language, in conjunction with the definition of "driveability" added to section 2471(a)(9), should address both OAL and SEMA concerns.

Section I.D. 1) – Emission Control Labels; Small Off-Road Engines

Modified the reference to the labelling requirements to be consistent with Title 13, CCR section 2404, as amended March 23, 1999.

Section I.D. 2) – Emission Control Labels; Off-Highway Recreational Vehicles and Engines

Modified the reference to the labelling requirements to be consistent with Title 13, CCR section 2413, as amended December 8, 1999.

Section I.D. 3) – Emission Control Labels; Off-Road Diesel Engines and Equipment

Modified the references to the labelling requirements to be consistent with Title 13, CCR section 2424, as amended December 22, 1993, and Title 40, Code of Federal Regulations, Part 89, Section 89.110-96, adopted June 17, 1994.

Section I.D. 4) – Emission Control Labels; Spark-Ignition Marine Engines

Modified the reference to the labelling requirements to be consistent with Title 13, CCR section 2443.1, adopted December 8, 1999, and with Title 13, CCR section 2443.2, adopted December 8, 1999.

Section I.D. 5) – Emission Control Labels; Off-Road Large Spark-Ignition Engines

Added language to specify the labelling requirements for this off-road source category.

Section IV.A – Off-Road Categories; Small Off-Road Engines

The description of the small off-road engine category was modified to be consistent with the updated definition in Title 13, California Code of Regulations section 2401(a)(35), as amended March 23, 1999.

Section IV.C - Off-Road Categories; Off-Highway Recreational Vehicles and Engines

The description of the off-highway recreational vehicle engine category was modified to be consistent with the updated definition in Title 13, California Code of Regulations section 2411(a)(15), as amended December 8, 1999.

Section IV.D - Off-Road Categories; Spark-Ignition Marine Engines

The description of the spark-ignition marine engine category was modified to be consistent with the definition in Title 13, California Code of Regulations section 2441(a)(30), adopted December 8, 1999.

Section IV.E - Off-Road Categories; Off-Road Large Spark-Ignition Engines

The description of the off-road large spark-ignition engine category was added to be consistent with the definition in Title 13, California Code of Regulations section 2431(a)(27), adopted October 19, 1999.

Section V.A 1)- Test Procedures for Small Off-Road Engines

The test procedures for this category were explicitly incorporated by reference.

Section V.A 2)– Test Procedures for Off-Road Diesel Engines and Equipment

Added language to explicitly incorporate by reference the test procedures for this category and to correct a reference from Title 13, CCR section 2424 to section 2423
Section V. A2): Updated references to the test procedures.

Section V.A 3)– Test Procedures for Off-Highway Recreational Vehicles and Engines

Staff added language to explicitly incorporate by reference the test procedures for this category and modified references to the test procedures to be consistent with the procedures in Title 13, CCR section 2412, as amended December 8, 1999.

Section V.A 4)– Test Procedures for Spark-Ignition Marine Engines

Because the ARB’s regulations applicable to spark-ignition marine engines were adopted by the Board and approved by OAL subsequent to the November 19, 1998 hearing on the proposed regulations, staff replaced the prior reference to test procedures adopted by the U.S. EPA with the test procedures specified in Title 13, CCR section 2442, and explicitly incorporated by reference the test procedures for this category.

Section V.A 5)– Test Procedures for Off-Road Large Spark-Ignition Engines

Staff added references to and explicitly incorporated by reference the test procedures for this category.

Section X.B – Warranty Requirements; Requirements of Installers

Added language clarifying that installers of alternative fuel conversion systems must warrant to the ultimate purchaser and to each subsequent purchaser that such systems were properly installed.

Section X.C.2 –Warranty Periods; Off-Highway Recreational Vehicles and Engines

The warranty requirements for new off-highway recreational vehicles and engines were removed from Title 13, CCR section 2414 by an amendment to that section filed March 23, 1999. Staff therefore amended this section to remove any minimum warranty period for alternative fuel conversion systems for this category.

Section X.C.4 –Warranty Periods; Marine Spark-Ignition Engines

Staff modified the warranty requirements for this category to be consistent with the warranty provisions in Title 13, CCR section 2445.1

Section X.C.4 –Warranty Periods; Off-Road Large Spark-Ignition Engines

Staff added language setting the warranty requirements for this category to be consistent with the warranty provisions in Title 13, CCR section 2435.

As noted above, Enclosure 1 contains the text of the modified regulatory language and associated procedures. The modifications presented in Mail-Out MSC 99-23 are shown in underline to indicate additions to the original proposal and ~~strikeout~~ to indicate deletions. The second set of modifications to the language presented in this mail-out are shown in double underline to indicate additions to the original proposal and ~~**bold-strikeout**~~ to indicate deletions. Printed copies may be obtained from Subhadra (Su) V. Nathan, Air Pollution Specialist, at (626) 575-6671.

The additional modifications are being made available for a second supplemental comment period in accordance with section 11346.8 of the Government Code. In Resolution 98-56 the Board directed the Executive Officer to adopt sections 2470 through 2476, Title 13, CCR, and to amend sections 2405 and 2425, Title 13, CCR, as approved, after making the modified regulatory language available to the public for comment for a period of at least 15 days, provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make such modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if he determines that this is warranted.

Written comments must be submitted to the Clerk of the Board, Air Resources Board, P.O. Box 2815, Sacramento, California 95812, no later than March 3, 2000, for consideration by the Executive Officer prior to final action. Only comments relating to the modifications described in this notice will be considered by the Executive Officer.

Technical questions concerning this regulatory item should be addressed to Subhadra (Su) V. Nathan, Air Pollution Specialist, at (626) 575-6671.

Robert H. Cross, Chief
Mobile Source Control Division

Attachments

ATTACHMENT 1

Proposed Additional Modifications to the Amendments to the Certification Procedures for All Aftermarket Parts and Conversion Systems for Off-Road Vehicles, Engines, and Equipment; Procedures for Exemption of Add-On and Modified Parts for Off-Road Categories; California Evaluation Procedures for New Aftermarket Non-Original Equipment Catalytic Converters for Off-Road Vehicles, Engines, and Equipment; and California Evaluation Procedures for New Aftermarket Non-Original Equipment Catalytic Converters for Off-Road Vehicles, Engines, and Equipment

NOTE: The following documents are printed in a style to indicate changes from the originally proposed provisions. All originally proposed language is indicated by plain type. The modifications presented in Mail-Out MSC 99-23 are shown in underline to indicate additions to the original proposal and ~~strikeout~~ to indicate deletions. The second set of modifications to the language presented in this mail-out are shown in double underline to indicate proposed additional text, and **~~bold-strikeout~~** to indicate proposed deleted text. All proposed modifications will be made available to the public for a 15-day comment period. Only comments relating to the modifications described in this second notice will be considered by the Executive Officer.